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FISCAL IMPACT STATEMENT

LS 6227

BILL NUMBER: SB 111

NOTE PREPARED: Nov 20, 2009

BILL AMENDED:

SUBJECT: Texting While Driving.

FIRST AUTHOR: Sen. Lanane

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Texting While Driving:* The bill makes it a Class C misdemeanor to use a handheld wireless communications device to transmit a text message or electronic mail message while operating a moving motor vehicle, and enhances the penalty for repeat offenses or if a person is injured or killed.

Habitual Traffic Violator: It provides that texting while driving may constitute a predicate offense for a habitual traffic violator determination.

It also makes conforming amendments.

Effective Date: July 1, 2010.

Explanation of State Expenditures: *Texting While Driving:* There are no data available to indicate how many offenders may be convicted of texting while driving, nor are there data to indicate the circumstance of the offense which may be subject to enhanced penalties. The following table shows the crime class of the underlying crime and the cause of potential enhancements.

Crime Class	Description/Circumstance
Class C Misdemeanor	Texting while driving (underlying offense)
Class A Misdemeanor	One prior unrelated conviction within 5 years
Class D Felony	Results in serious bodily injury to any person; or Two or more prior unrelated convictions within 5 years
Class C Felony	One or more prior unrelated convictions within 5 years and serious bodily injury occurs; or Results in death
Class B Felony	One or more prior unrelated convictions within 5 years and death occurs

Depending upon mitigating and aggravating circumstances, a Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, a Class C felony is punishable by a prison term ranging from 2 to 8 years, and a Class B felony is punishable by a prison term ranging from 6 to 20 years. The average expenditure to house an adult offender was \$20,194 in FY 2009. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,818 annually, or \$13.20 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$75,050 in FY 2009. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months, for all Class C felony offenders is approximately two years, and for all Class B felony offenders is approximately 3.7 years.

Habitual Traffic Violator: The bill includes texting while driving among the offenses that allow the court to find that the offender is a habitual violator. Habitual violators may be subject to probation, have licenses suspended or conditions place on a license, and may be subject to enhanced penalties if they are found guilty of subsequent, unrelated offenses.

Explanation of State Revenues: *Texting While Driving:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C misdemeanor is \$500, for Class A misdemeanor is \$5,000, and for a felony offense is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

If a criminal action, infraction or ordinance violation involves a traffic violation, including this proposed offense, a highway work zone fee of either 50 cents or \$25.50 is assessed.

Explanation of Local Expenditures: *Texting While Driving:* A Class C misdemeanor is punishable by up to 60 days in jail, a Class A misdemeanor is punishable by up to one year in jail, and defendants in felony

offenses may be detained in county jails prior to their court hearings. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Texting While Driving:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: DOC.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, DOC.

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